

FINAL PROPOSAL
Cease & Desist Orders

12-20-405. [Formerly 12-5.5-303] Cease-and-desist orders. (1) (a) If it appears to ~~the director~~ A REGULATOR, based upon credible evidence as presented in a written complaint by any person, that a licensee, CERTIFICATE HOLDER, OR REGISTRANT is acting in a manner that is a threat to the health and safety of the public, or a person is acting or has acted without the ~~required~~ license, CERTIFICATION, OR REGISTRATION REQUIRED TO PRACTICE A PROFESSION OR OCCUPATION, ~~the director~~ REGULATOR THAT REGULATES THE PARTICULAR PROFESSION OR OCCUPATION may issue an order to cease and desist the activity. The order must set forth the ~~statutes and rules~~ LAWS alleged to have been violated, the facts alleged to have constituted the violation, the specific harm that threatens the health and safety of the public, and the requirement that all unlawful acts or unlicensed, UNCERTIFIED, OR UNREGISTERED practices immediately cease.

(b) Within ten days after service of the order to cease and desist pursuant to ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION, the respondent may request a hearing on the question of whether acts or practices in violation of ~~this article~~ THE PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR PROFESSION OR OCCUPATION have occurred. The hearing must be conducted pursuant to sections 24-4-104 and 24-4-105. ~~E.R.S.~~

(2) (a) If it appears to the ~~director~~ REGULATOR, based upon credible evidence as presented in a written complaint by any person, that a person has violated any other ~~portion of this article~~ PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR PROFESSION OR OCCUPATION, then, in addition to any specific powers granted pursuant to ~~this article~~ THE PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR PROFESSION OR OCCUPATION, the ~~director~~ REGULATOR may issue to the person an order to show cause as to why the ~~director~~ REGULATOR should not issue a final order directing the person to cease and desist from the unlawful act or UNLICENSED, UNCERTIFIED, OR UNREGISTERED practice.

(b) The ~~director~~ REGULATOR shall promptly notify the person of the issuance of the order and shall include in the notice a copy of the order, the factual and legal basis for the order, and the date set by the ~~director~~ REGULATOR for a hearing on the order. The ~~director~~ REGULATOR may serve the notice by personal service, by first-class United States mail, postage prepaid, or as may be practicable upon any person against whom the order is issued. Personal service or proof of receipt of mailing of an order or document pursuant to this ~~paragraph (b)~~ SUBSECTION (2)(b) constitutes notice to the person of the existence and contents of the order or document.

(c) (I) The ~~director must~~ REGULATOR SHALL commence the hearing on an order to show cause no sooner than ten, and no later than forty-five, calendar days after the date of ~~transmission or service of the notification by the director~~ THE REGULATOR TRANSMITTED OR SERVED NOTICE as provided in ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF

1 THIS SECTION. The ~~director~~ REGULATOR may continue the hearing by agreement of all parties
2 based upon the complexity of the matter, number of parties to the matter, and legal issues
3 presented in the matter, but in no event may the ~~director~~ REGULATOR commence the hearing
4 later than sixty calendar days after the date of transmission or service of the notification.
5 SECTIONS 24-4-104 AND 24-4-105 GOVERN THE CONDUCT OF THE HEARING HELD UNDER THIS
6 SUBSECTION (2)(c).

7 (II) If a person against whom THE REGULATOR HAS ISSUED an order to show cause
8 ~~has been issued pursuant to paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS
9 SECTION does not appear at the hearing, the ~~director~~ REGULATOR may present evidence that
10 THE REGULATOR PROPERLY SENT OR SERVED THE notification ~~was properly sent or served~~
11 upon the person pursuant to ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS
12 SECTION and any other evidence related to the matter as the ~~director~~ REGULATOR deems
13 appropriate. The ~~director~~ REGULATOR shall issue the order within ten days after the ~~director's~~
14 REGULATOR'S determination related to reasonable attempts to notify the respondent, and the
15 order becomes final as to that person by operation of law. ~~The conduct of the hearing is~~
16 ~~governed by sections 24-4-104 and 24-4-105, C.R.S.~~

17 (III) If the ~~director~~ REGULATOR reasonably finds that the person against whom THE
18 REGULATOR ISSUED the order to show cause ~~was issued~~ is acting or has acted without the
19 required license, CERTIFICATION, OR REGISTRATION or has or is about to engage in acts or
20 practices constituting violations of ~~this article or rules adopted under this article~~ THE LAWS
21 GOVERNING THE PARTICULAR PROFESSION OR OCCUPATION, the ~~director~~ REGULATOR may
22 issue a final cease-and-desist order directing the person to cease and desist from further
23 unlawful acts or unlicensed, UNCERTIFIED, OR UNREGISTERED practices.

24 (IV) The ~~director~~ REGULATOR shall provide notice, in the manner set forth in
25 ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION, of the final
26 cease-and-desist order within ten calendar days after the hearing conducted pursuant to this
27 ~~paragraph (c)~~ SUBSECTION (2)(c) to each person against whom THE REGULATOR HAS ISSUED
28 the final order. ~~has been issued~~. The final order issued pursuant to ~~subparagraph (III) of this~~
29 ~~paragraph (c)~~ SUBSECTION (2)(c)(III) OF THIS SECTION is effective when issued and
30 constitutes a final order for purposes of judicial review.

31 (3) The ~~director~~ REGULATOR may enter into a stipulation with a person if it appears
32 to the ~~director~~ REGULATOR, based upon credible evidence presented to the ~~director~~
33 REGULATOR, that the person has engaged in or is about to engage in:

34 (a) An unlicensed, UNCERTIFIED, OR UNREGISTERED act or practice;

35 (b) An act or practice constituting a violation of ~~this article, a rule promulgated~~
36 ~~pursuant to this article~~, THE LAWS GOVERNING THE PARTICULAR PROFESSION OR OCCUPATION
37 or an order issued pursuant to ~~this article~~ THOSE LAWS; or

38 (c) An act or practice constituting grounds for administrative sanction pursuant to
39 ~~this article~~ THE PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR PROFESSION
40 OR OCCUPATION.

1 (4) If any person fails to comply with a final cease-and-desist order or a stipulation,
2 the ~~director~~ REGULATOR may request the attorney general or the district attorney for the
3 judicial district in which the alleged violation exists to bring, and if so requested the attorney
4 shall bring, suit for a temporary restraining order and for injunctive relief to prevent any
5 further or continued violation of the final order.

6 (5) A person aggrieved by the REGULATOR'S final DETERMINATION WITH REGARD TO
7 A cease-and-desist order may seek judicial review ~~of the director's determination or of the~~
8 ~~director's final order in a court of competent jurisdiction~~ IN ACCORDANCE WITH SECTION
9 12-20-409.

10 (6) ~~A person who practices or offers or attempts to practice as a hearing aid provider~~
11 ~~or who engages in the practice of dispensing, fitting, or dealing in hearing aids without an~~
12 ~~active hearing aid provider license issued under this article commits a class 2 misdemeanor~~
13 ~~and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and,~~
14 ~~for the second or any subsequent offense, the person commits a class 6 felony and shall be~~
15 ~~punished as provided in section 18-1.3-401, C.R.S.~~ THIS SECTION DOES NOT APPLY TO
16 ARTICLES 125, 140, AND 150 OF THIS TITLE 12 CONCERNING FANTASY CONTESTS,
17 NONTRANSPLANT TISSUE BANKS, AND PASSENGER TRAMWAYS, RESPECTIVELY.